

Title 10 – DEPARTMENT OF NATURAL RESOURCES
Division 20 – Clean Water Commission
Chapter 4 – Grants

EMERGENCY AMENDMENT

10 CSR 20-4.030 Grants for Sewer Districts and Certain Small Municipal Sewer Systems.

PURPOSE: This amendment revises the payment procedures in paragraph (4)(B)-(E) to incorporate language necessary to make timely distribution of state bond funds.

EMERGENCY STATEMENT: The State of Missouri is authorized to sell bonds for the funding of water pollution control, rural water and sewer grants, and storm water control pursuant to MO. Const. Art. III, §§37(e), 37(g), and 37(h), respectively. The Missouri Department of Natural Resources and the Missouri Clean Water Commission are mandated to implement regulations to govern the disbursement of the appropriated proceeds of such bond sales for the purposes expressly stated therein. Interest on such bonds sold is generally exempt from federal income taxation. The Internal Revenue Code imposes certain requirements relating to the timely expenditure of such bond sale proceeds. This emergency amendment is necessary to modify existing procedures of the Missouri Department of Natural Resources and the Missouri Clean Water Commission so that unspent sale proceeds of outstanding issues of bonds can be made available for expenditure on a more timely basis, in accordance with the requirements of §149 of the Internal Revenue Code (26 U.S.C. §149). The promulgation of this emergency amendment is necessary to enable the State to continue to comply with the provisions of the Internal Revenue Code that govern the existing bonds so that interest thereon remains exempt from federal income tax in accordance with the expectations of the purchasers of such bonds. The promulgation of this emergency rule is also necessary to assure that the unspent sale proceeds of such bonds can be made available for the constitutionally stated purposes which protect public health, safety, and welfare. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Missouri Department of Natural Resources and Missouri Clean Water Commission have limited the scope of the emergency amendment to the circumstances creating the emergency, and believe that it is fair to all interested persons and parties under the circumstances. This emergency amendment was filed February 1, 2007, becomes effective March 4, 2007, and expires August 30, 2007.

(4) Approval and Payment of Grants.

(A) The applicant shall be notified by the department when the grant application has been approved. Grant award shall be made upon receipt and approval of bid documents and executed contract documents.

(B) *[Installment]* **Full** payment[s] of the grant **amount** shall be made at the *[request]* **time** of the *[applicant and shall be based on expenditures outlined in paragraph (1)(C)1. of this rule]* **department's receipt of the executed grant award or grant amendment. The following**

provisions shall apply: *[Payments will be made in equal installments as listed in the following paragraphs in this section;]*

1. *[A first installment will be made when not less than twenty-five percent (25%) of the construction of the project is completed based on the contractor's pay estimates]* **The grantee shall establish a separate escrow account with a bank as defined in Chapter 409, Section 409-001.102, RSMo;**

2. *[A second installment will be made when not less than fifty percent (50%) of the construction of the project is completed based on the contractor's pay estimates]* **The full grant award amount, less any payments processed prior to the date of this rule, will be paid into the grantee's established escrow account;**

3. *[A third installment will be made when not less than seventy-five percent (75%) of the construction of the project is completed based on the contractor's pay estimates]* **Grant funds in the escrow account may be used to pay up to fifty percent (50%) of the costs of construction, equipment and construction phase engineering as the costs are incurred. No funds will be withdrawn for the construction of house laterals; and**

4. *[A fourth installment will be made when the project is completed and upon submission of a completed statement of work form provided by the department, departmental approval of a statement of project receipts and expenditures and a final inspection by the department]* **The grantee shall submit the bank statement of the escrow account monthly, within thirty (30) days of the end of the month. If the monthly statement indicates that funds were withdrawn, the grantee shall submit copies of the invoices to document the costs.**

(C) Any cost of work completed after submission of the statement of work completed form shall not be considered an eligible project cost. The grant amount will be reduced, if necessary, to reflect actual *[final]* project costs *[at the time of final payment]* **as determined by the invoices submitted by the grantee.**

(D) **The department will verify project completion after a final inspection by the department has been conducted.**

(E) An audit to verify expenditure of grant funds may be made by the department after the completion of each approved project. **Any funds found not expended for the purposes listed in subsection (4)(B)3 of this regulation will be recovered.**

Auth: section 640.615, RSMo (1994). Original rule filed Feb. 2, 1983, effective July 1, 1983. Amended: Filed Nov. 27, 1985, effective Feb. 25, 1986. Amended: Filed Aug. 30, 1989, effective Nov. 27, 1989. Amended: Filed Sept. 4, 1991, effective Feb. 6, 1992. Amended: Filed April 14, 1994, effective Nov. 30, 1994. Amended: Filed March 1, 1996, effective November 30, 1996. Amended: Filed June 24, 1999, effective March 30, 2000. Emergency amendment filed Feb. 1, 2007, effective Mar. 4, 2000, expires Aug. 30, 2007.